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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/801,614	03/08/2001	Gerald Francis McBrearty	AUS9-2000-0935-US1	5324
<div>7590 International Business Machines Corporation Intellectual Property Law Department Internal Zip 4054 11400 Burnet Road Austin, TX 78758</div>			<div>07/12/2007 EXAMINER DENNISON, JERRY B</div>	
			<div>ART UNIT 2143</div>	<div>PAPER NUMBER</div>
			<div>MAIL DATE 07/12/2007</div>	<div>DELIVERY MODE PAPER</div>

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Office Action Summary**

Application No.

09/801,614

Applicant(s)

MCBREARTY ET AL.

Examiner

J. Bret Dennison

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 26 March 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1,4,5,7,10,13,14,17,20,21,24,25,27 and 30 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4,5,7,10,13,14,17,20,21,24,25,27 and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

1. This Action is in response to BPAI Decision for Application Number 09/801,614 filed 26 March 2007.
2. The prosecution for this case has been transferred to another Examiner. All corresponding communications should be directed towards the Examiner's contact information, provided below.
3. Claims 1, 4, 5, 7, 10, 13, 14, 17, 20, 21, 24, 25, 27, and 30 are presented for examination.
4. In response to the BPAI Decision, filed 26 March, 2007, the rejection(s) of claim(s) 1, 4, 5, 7, 10, 13, 14, 17, 20, 21, 24, 25, 27, and 30 have been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Winburn (U.S. 2002/0069363), Moran (U.S. 6,647,400), and Koelle et al. (U.S. 7,150,045).

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1, 5, 7, 10, 14, 17, 21, 25, and 27 are rejected under 35 U.S.C. 102(e) as being anticipated by Winburn (U.S. 2002/0069363).

5. Regarding claims 1, 5, 7, 10, 14, 17, 21, 25, and 27, Winburn disclosed, in a data processing operation having stored data in a plurality of data files, a system (Winburn, Fig. 1, system 10) for protecting said data files from unauthorized users comprising:

means for storing for each of said plurality of data files, a backup file inaccessible to user requests (Winburn, [0026], Winburn disclosed an authentic backup file, with its identity and location camouflaged to remove any direct relation between any of the attributes of the authorized protected data file and the corresponding authentic backup file);

means for receiving user requests for access to data files (Winburn, [0025], Winburn disclosed user accesses to authorized protected data files);

means for determining whether said requests are unauthorized intrusions into said requested data files (Winburn, [0030], Winburn disclosed, in response to a sensed event, checking the protected data file to see if it has been changed without authorization, thereby determining if a user access/request was unauthorized);

means responsive to an initial determination that a request is unauthorized for destroying the requested data files (Winburn, [0026], Winburn disclosed reconstructing the last authorized copy of the protected file into the protected file, which requires destroying the previous tampered file, i.e. it no longer exists; Fig. 7, 69, Winburn disclosed "delete compromised current protected data file); and

means for reloading a backup file for each destroyed file (Winburn, [0026], Fig. 6, 61, Winburn disclosed recovering the authentic backup and restoring the authorized

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protected data file; Fig. 7, Winburn disclosed "Write restored authorized protected data file" by clearly using the backup file).

Claims 5 and 7 include a system with limitations that are substantially similar to claim 1, including use in business transactions, including "e-commerce" which inherent to include web sites (see Guheen U.S. 7,165,041). Claims 10, 14, and 17 include a method with limitations that are substantially similar to claim 1. Claims 21, 25 and 27 include a computer program (Winburn, [0032]) with limitations that are substantially similar to claim 1. Therefore, claims 5, 7, 10, 14, 17, 21, 25, and 27 are rejected under the same rationale.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 13, 20, 24, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Winburn (U.S. 2002/0069363) in view of Moran (U.S. 6,647,400) and Koelle et al. (U.S. 7,150,045).

6. Regarding claims 4, 13, 20, 24, and 30, Winburn disclosed the limitations, substantially as claimed, as described in claims 1, 10, 17, 21, and 27. Winburn also disclosed detecting unauthorized access of data without authority into a data system

(Winburn [0002]), and checking the protected data file to see if it has been tampered in response to a sensed event (Winburn, [0030]).

Therefore, while Winburn disclosed detecting unauthorized accesses based on sensed events, Winburn did not provide explicit examples of sensed events that would trigger the system to check for such unauthorized access/tampering of the files.

This would have motivated one of ordinary skill to search the prior art for well-known triggers that identify unauthorized accesses into a system.

In analogous art, Moran disclosed different intrusion detection triggers including password-guessing attacks (Moran, col. 24, lines 40-45), and Koelle disclosed detection of unauthorized client behaviors including unauthorized copying of protected data (Koelle, see Abstract).

Winburn suggests detecting unauthorized intrusions into the system. Moran and Koelle provide explicit examples of well-known intrusion detection techniques. Therefore it would have been obvious to one of ordinary skill in the art at the time the invention was made to incorporate the techniques of Moran and Koelle into the system of Winburn in order to provide a system that is more secure to attacks from unauthorized users for the benefit of providing a more reliable system.

### ***Conclusion***

It is presumed that claims 1, 4, 5, 7, 21, 24, 25, 27, and 30 invoke "means plus function" language and interpretation in accordance with 35 USC 112 sixth paragraph. In order to verify and ascertain the metes and bounds of the claimed invention,

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Applicant is requested to isolate the portion(s) of the specification which dictates the structure relied on for proper interpretation if this presumption is appropriate.

**Examiner's Note:** Examiner has cited particular columns and line numbers in the references applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings of the art and are applied to specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the Examiner.

In the case of amending the claimed invention, Applicant is respectfully requested to indicate the portion(s) of the specification which dictate(s) the structure relied on for proper interpretation and also to verify and ascertain the metes and bounds of the claimed invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to J. Bret Dennison whose telephone number is (571) 272-3910. The examiner can normally be reached on M-F 8:30am-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Wiley can be reached on (571) 272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for

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published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should

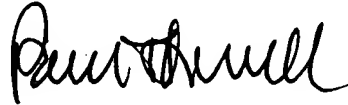
you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).



J. B. D.  
Patent Examiner  
Art Unit 2143

*Approved for reopening*



PAUL SEWELL  
ACTING DIRECTOR